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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,089	01/16/2002	Masahiro Hatashita	81800.0178	5517

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LOS ANGELES, CA 90071-2611

EXAMINER

BAKER, CHARLOTTE M

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/053,089

Applicant(s)

HATASHITA, MASAHIRO

Examiner

Charlotte M. Baker

Art Unit

2625

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 17 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-20.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**KIMBERLY WILLIAMS**  
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant submits that the cited reference Nakamura (4,999,716) does not teach appending error data preset to indicate that an error condition exists to test data. Examiner respectfully traverses. Applicant takes the position that the bits disclosed by Nakamura have nothing to do with errors (see p. 3, 2nd full par. of remarks). Attention is drawn to Nakamura (col. 8, ln. 1-13 and Fig. 7) where it is clear that the bits are associated with errors and are counted in order to determine the number of erroneous bits. This analysis is performed by determining the number of bits that have changed from "0" to "1". The addition of a predetermined number of bits and the condition of a bit changing from a "0" to "1" disclosed by Nakamura satisfies the Applicant's claim limitation "appending an error data that is preset to indicate that an error condition exists". In addition, Applicant takes the position that Nakamura does not disclose that the preset error data be appended to test data used for a training purpose. Applicant further clarifies that this means that the preset error data is appended to the TCF signal. (See p. 3, last par. of remarks). Attention is drawn to Nakamura (P7, "count bit error in TCF") which clearly shows that the preset error data (bits) are appended to the TCF signal because the bit error is determined by counting the number of bits that have changed from "0" to "1" (see col. 7, ln. 67 through ln. 13). In addition, see Nakamura (Fig. 7, S2 and col. 8, ln. 14-37). The counted number of bits ("0" to "1" transitions) in the TCF signal is used for a training purpose. The claim language is silent as to the purpose of the training ("for a training purpose") and Nakamura is using the count to determine transmission speed (training) (see Nakamura, Abstract, "A number of erroneous bits in the training check field signal TCF which is sent from the transmitting facsimile machine at an initial modem transmission speed and received by the receiving facsimile machine is detected, and the modem transmission speed is set based on the detected number of erroneous bits".) Based upon the number of erroneous bits, the speed is determined; therefore, the appended test data is used for a "training" purpose. Applicant states that Nakamura's determination of appropriate transmission speed is in contravention to Applicant's specific purpose, which is knowing manipulation of the TCF signal to prevent a change in transmission speed. The claim language does not support what Applicant states. The claim language associates speed with the FTT signal and is silent about the TCF signal associated with prevention of a change in transmission speed (claims 5-8 and 14-17). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., manipulation of the TCF signal to prevent a change in transmission speed; TCF signal is purposely preset to indicate an error condition) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). For these reasons, Examiner respectfully traverses Applicant's remarks.